

**GOVERNMENT OF ANDHRA PRADESH
ABSTRACT**

Tribal Welfare Department – Appeal Petition filed by Sri Bondili Sainath Singh S/o Surayanarayana Singh Occ: Working as Assistant LIC, Kavali, SPSR Nellore District against the proceedings No.D.Dis.(C5)1044/2008, dated 08.12.2010 of the District Collector, SPSR Nellore under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) - Regulation of Issue of Community Certificates Act, 1993 (AP Act No.16/1993) – Appeal Petition dismissed – Orders -Issued.

SOCIAL WELFARE6c (TW.CV.2) DEPARTMENT

G.O.Ms.No.61

Dated:10.05.2018

Read the following:

1. Proceedings of the District Collector, SPSR Nellore, D.Dis.(C5)1044/2008, dated 08.12.2010.
2. Appeal Petition filed Sri Bondili Sainath Singh S/o Surayanarayana Singh Occ: Working as Assistant LIC, Kavali, SPSR Nellore District, dt.28.12.2010.
3. Govt. Memo No. 12067/CV.2/2010, dt.10.02.2011
4. From the District Collector, SPS Nellore letter No.(M) Rc.No.C5(M)/276/2012, dt.14.10.2014 & 05.02.2015.
5. Govt. Memo No. 12067/CV.2/2010, dt: 17.11.2015 & 29.05.2017.

ORDER:

In the reference 1st read above, the District Collector, SPSR Nellore has issued orders cancelling ST-Lambada caste certificate obtained from the then Mandal Revenue Officer, Kavali, SPSR Nellore District in the year 1991 by Sri Bondili Sainath Singh S/o Surayanarayana Singh.

2. In the reference 2nd read above, Sri Bondili Sainath Singh S/o Surayanarayana Singh, has filed an Appeal Petition before the Government, against the Proceedings of the District Collector, SPSR Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition and granted stay on the proceedings of the District Collector, SPSR Nellore and called for the parawise remarks and connected records from the District Collector, SPSR Nellore in the reference 3rd read above.

3. In the reference 4th read above, the District Collector, SPSR Nellore has furnished the Parawise remarks and the connected records on the Appeal Petition filed by Sri Bondili Sainath Singh S/o Surayanarayana Singh.

4. The said Appeal Petition has been posted for hearing on 28.11.2015 & 24.06.2017 and the same has been informed to the Appellant and the Counsel for the Appellant in the reference 5th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government. The appellant have attended for hearing scheduled on 24.06.2017 and argued his case.

5. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, SPSR Nellore and proceedings of the District Collector, SPSR Nellore, dated 08.12.2010 the Appellate Authority is observed that :

- I. The appellant in his grounds has stated that he have received the DLSC notice in form No. 6 on 22.11.2010 calling upon him to appear before the committee on 26.11.2010 and on the said date the committee has recorded his statement and without giving further opportunity to adduce the statements of his relatives in support of his claim.
- II. The District Level Scrutiny Committee has observed that the father of the appellant belongs to BC-Bondili caste and his mother belongs to ST-Lambadi caste. The marriage between a tribal with a non-tribal, the main factor or consideration is whether the couple was accepted by the tribal society to which the tribal spouse belongs to. In the present case, all the family members of the appellant are not in the fold of Lambadi community and they were not accepted by the tribal society. It was also observed that the individual and his family members having relationship with Bondili (B.C) caste people and that they do not have any relations with Lambadi tribe people. The individual himself married the

[P.T.O]

person belonging to Bondili caste. But the appellant has not produced any relevant documents in support of his ST-'Lambadi' community claim except school records, which was the declaration of the parents of student filed at the time of admission into the Schools only and does not contain any other validity or recorded proof for caste purpose. Based on the DLSC findings, the District Collector, SPSR Nellore has cancelled the appellant's ST-Lambadi caste certificate.

- III. Further it is observed that as per G.O.Ms.No.371, Employment and Social Welfare (B2) Department, dated 13.04.1976 in Annexure-II at para 4 has stated that "in the case of marriage between a tribal with a non-tribal the main factor or consideration is whether the couple were accepted by the tribal society to which the tribal spouse belongs. If he or she, as the case may be, is accepted by the society then their children shall be deemed to be Scheduled Tribes. But this situation can normally happen when the husband is a member of the Scheduled Tribe. However, a circumstances may be Scheduled Tribe woman may have children from marriage with a non- Scheduled Tribe man. In that event the children may be treated as Scheduled Tribes only if the members of the Scheduled Tribe community accept them and treat them as members of their own community." In the instant case, all the family members of the appellant are not in the fold of Lambadi community and they were not accepted by the tribal society. Therefore, the appellant does not belongs to ST-Lambadi community.
- IV. Under section 6 of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No.16/1993) the burden of proof lies on the Appellant only.
- V. The Appellate Authority is observed that during the course of hearing of the case, the appellant submitted his arguments as per his grounds in appeal petition and stated that the lower authority failed to observe that he was Lambadi as per school certificates and brought up within that family as such he is able to prove his case as he belongs to ST Lambadi community. On verification of the documents and the grounds of appeal and Para wise remarks as well as the other documents and material available on the record it is noticed that except the above contention nothing was placed for appreciation of the case of the appellant and he failed to produce any evidence to prove his case and further noticed that the appellant and his family members are not in fold of ST Community and they were not accepted by the tribal society and the appellant and family members are relations with Bondili caste only. It is further brought to the notice that the certificate earliest issued to the individual in a routine manner and the same was cancelled after conducting detailed and through enquiry into the caste status of the individual. That as per the act that the burden of proof lies on the appellant to produce necessary evidence and documents to claim the same. In the instant case, the appellant except relaying the evidence filed before the lower authority failed to produce any material of his case. As seen from the record the lower authority passed the order after reasonable appreciating the evidence available on record as per law which deserves no interference. Hence it is apparent that the appeal is devoid of any merits and there is no infirmity either in the findings of the DLSC or the Learned District Collector, SPSR Nellore District. That taking consideration of the above and the material available on the record that it can be concluded that the lower authority passed the order as per law which does not deserve any interference, and accordingly the Proceeding of the District Collector, SPSR Nellore District is hereby upheld and the appeal petition is hereby dismissed.

6. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the appeal petition filed by Sri Bondili Sainath Singh S/o Surayanarayana Singh does not deserve any interference. Hence, Proceedings of the District Collector, SPSR Nellore issued vide D.Dis.(C5)1044/2008, dated 08.12.2010, is hereby upheld and the Appeal Petition filed by Sri Bondili Sainath Singh S/o Surayanarayana Singh, is hereby dismissed and the interim stay order granted earlier stands vacated and the Certificates issued by the then Mandal Revenue Officer, Kavali, is deemed to be cancelled.

7. The District Collector, SPSR Nellore is directed to take necessary consequential action in the matter.

[Contd.. on P.3]

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8. The records (containing D.Dis.(C5)1044/2008, dated 08.12.2010, pages: CF: 1-108 & NF: 1-10) received from the District Collector, SPSR Nellore through in the reference 4th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

**S.S. RAWAT
PRINCIPAL SECRETARY TO GOVERNMENT**

To
The District Collector, SPSR Nellore.(BY RPAD)
(with original records).

Sri Bondili Sainath Singh S/o Surayanarayana Singh
Occ: Working as Assistant LIC, Kavali
R/o. D.No.10-34-3, Cooperative Colony,
Kavali SPS Nellore District – 524201.

Sri Sai Gangadhar Chamarty, Ramasekhara Rao Channa, Advocates,
Flat No.305, Aditya Arcade, Azamabad, Hyderabad-20.

The Sr. Divisional Manager,
LIC Of India, Divisional Office,
Dargamitta, Nellore 524003.

Copy to :

The Director, TCR& TI, AP, Amaravathi.
The PS to M(SWE& TWE).
The PS to Principal Secretary(SW&TW).

// FORWARDED:: BY ORDER //

SECTION OFFICER